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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/710,154
Filing Date: November 09, 2000
Appellant(s): COMO. ET AL.

OCT 31 2007

GROUP 3600

John C. Freeman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/23/07 appealing from the Office action
mailed 1/19/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,893,076	HAFNER et al	4-1999
6,125,391	MELTZER et al	9-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-10, 18-22, and 34-38 are rejected under 35 U.S.C. 102 (e) a being anticipated by Hafner et al (US 5,893,076).

As per claims 2, 21, Hafner et al discloses:

Wherein the obtaining comprises obtaining demand-indicating data, the demand-indicating data including at least one of demand data and forecast data on the transactional subject/wherein the obtaining step includes obtaining one of demand data and forecast data with respect to the transactional subject, (In this case, the examiner also notes that applicant's specification indicates that demand-indicating data includes forecast data and demand data and that the forecast data may represent the prospective demand of the first business entity for a product, service, good, financial transaction, or material provided by the second business entity. The demand data represents an actual, a present, or an estimated demand for good, service, product, material, or financial transaction provided by the second business entity to the first business entity (Specification, page 14 line 27 - page 15 line 5). Hafner et al discloses that the data being obtained is inventory information such as point of sale data or

inventory adjustment information such as quantities of goods sold and returned as well as decreases in safety stock and loss of inventory, (Col. 4, lines 1-12; Col. 6, lines 11-20). Examiner submits that this information taught by Hafner et al represents an actual or present demand for a good or product. Hafner et al further disclose a forecasting engine for predicting future inventory needs based on inputs from an inventory activity file and stock data file (Col. 5, lines 15-48). Thus, examiner submits that Hafner et al teach obtaining and processing the particular type of data as defined in applicant's specification).

As per Claim 3, Hafner et al further disclose wherein the obtaining step comprises obtaining inventory-tracking data, the inventory-tracking data including at least one of consumption data and inventory data (Col. 4, lines 1-12; Col. 5, lines 15-23 and 34-36; Col. 6, lines 12-25).

As per Claim 4, Hafner et al further disclose wherein the generating step comprises generating an order as the business decision, the order being for the transactional subject based on the requirement-indicating data (Col. 4, lines 43-55; Col. 5, lines 42-55; Col. 6, lines 22-32).

As per Claim 5, Hafner et al further disclose wherein the generating step comprises generating a shipping instruction as the business decision, the shipping instruction being for the transactional subject based on the requirement indicating data (Col. 4 line 63-Col. 5 line 3).

As per Claim 6, Hafner et al further disclose wherein the feeding step comprises feeding the transmitted requirement-indicating data into an enterprise resource planning

system as the electronic processor (Figures 1 and 3; Col. 3, lines 28-31; Col. 3 line 65-Col. 4 lines 5; Col. 5, lines 7-55). Examiner considers the replenishment system taught by Hafner et al to be equivalent to the "enterprise resource planning system" as claimed.

As per Claim 7, Hafner et al further discloses:

obtaining requirement-indicating data or demand-indicating data of a first entity with respect to a transactional subject (Col. 2, lines 45-47; Col. 3, line 65-Col. 4 line 12; Col. 4, lines 17-28; Col. 5, lines 15-20; Col. 6, lines 12-20);

wherein the obtaining step comprises extracting a subset of the requirement-indicating data from a requirement-indicating database associated with an enterprise resource planning system (Col. 5, lines 34-48; Col. 6, lines 22-26);

wherein the extracting process is selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, (Col. 3, lines 34-64), a process based on previous history of the usefulness of prior extracted data, (Col. 10, lines 50-56), a process based on a model for managing the transactional subject, (Col. 10, lines 63-65), and a process based on properties of the database, (Col. 5, lines 10-19);

automatically transmitting the obtained requirement-indicating data or demand-indicating data from a first business entity to a second business entity over a communications network, (Col. 2, lines 47-50; Col. 3 line 65-Col. 4 line 12; Col. 5, lines 15-20, Col. 6, lines 12-20);

automatically feeding the transmitted requirement-indicating data or demand-indicating data into an electronic processor (Forecasting engine, Figure 3, 230) for monitoring the transactional subject or demand-indicating data, the electronic processor being associated with an electronic processing system, (Replenishment system, 10, Figure 3) of the second business entity(Figure 3; Col. 2, lines 47-50; Col. 3 line 65-Co1.4 line 12; Col. 4, lines 50-55; Col. 5, lines 17-25 and 34-55; Col. 6, lines 20-25)(Examiner notes that the replenishment system of Hafner et al is considered by the examiner to be part of the second business entity since Hafner et al indicates that his system allows for cost efficient, secure and flexible inventory forecasting and replenishment which may be maintained by suppliers (Col. 2, lines 5-10).); and

generating a business decision of the first business entity and the second business entity that is based on the requirement-indicating data or demand-indicating data and that is made solely by the electronic processing system without the need for manual data entry into or manual data extraction from the electronic processing system, (Col. 2, lines 23-25; Col. 2, lines 47-55; Col. 4, lines 28-34 and 43-55; Col. 5, lines 42-60; Col. 6, lines 23-32). Examiner submits that the replenishment system of Harrier et al correlates to the electronic processing system as claimed and is considered part of the second business entity since Hafner et al indicates that his system allows for cost efficient, secure and flexible inventory forecasting and replenishment which may be maintained by suppliers (Col. 2, lines 5-10)). Examiner notes that applicant's specification defines requirement-indicating data as information that is useful in managing or conducting a commercial activity or a transaction involving a transactional

subject (Specification, Page 5, lines 7-10). Applicant's specification further defines requirement-indicating data as data that may represent forecast data, demand data, consumption data, inventory data, or any other data that impacts characteristics of a transaction or commercial activity involving the transactional subject (Specification, page 9, lines 18-21), wherein inventory data represents a measure of an inventory level of a transactional subject (Specification, page 9, lines 24-25), and consumption data represents an increase, a decrease, rate of increase, or rate of decrease of inventory of a transactional subject (Specification, page 9, lines 25-27). Hafner et al discloses that the data being obtained is inventory information such as point of sale data or inventory adjustment information such as quantities of goods sold and returned as well as decreases in safety stock and loss of inventory (Col. 4, lines 1-12; Col. 6, lines 11-20). Thus, examiner submits that Hafner et al teach obtaining and processing the particular type of data as defined in applicant's specification.

As per Claim 8, Hafner et al further disclose wherein the transmitting step comprises transmitting superseding requirement-indicating data on an as-needed basis to replace prior requirement-indicating data at the second business entity (Col. 4, lines 1-12; Col. 5, lines 15-33; Col. 6, lines 10-22; inventory adjustment data is considered by examiner to be data that is superseding prior inventory data).

As per Claim 9, Hafner et al further disclose wherein the transmitting step comprises transmitting differential data for expressing a change with respect to prior requirement indicating data at the second business entity (Col. 4, lines 1-12; Col. 5, lines 15-33; Col. 6, lines 10-22; inventory adjustment data is considered by examiner to

be data that is differential data for expressing a change with respect to prior inventory data).

As per Claim 10, Hafner et al further disclose wherein the generating step comprises generating the business decision on production of the transactional subject based on an exchange of the requirement-indicating data at a regular interval, the regular interval having a duration that depends upon a nature of the business of the first business entity and the second business entity (Col. 5, lines 34-55 and Col. 6, lines 22-30; Col. 10, lines 46-60). Hafner et al disclose that the forecasting processing sub-system includes a scheduler function that is maintained and controlled by the supplier. The forecasting sub-system generates the business decision based on new or exchanged requirement-indicating data either on demand or based on the scheduler. Thus, the duration of the interval is controlled by the supplier based upon the nature of the business.

As per Claims 34-37, Hafner et al further disclose wherein the business decision comprises an order processing decision, procuring a production material, engaging in a commercial transaction or purchasing the transactional subject (Col. 4, lines 43-62; Col. 5, lines 40-55; Col. 6, lines 20-42).

As per claim 38, Hafner et al discloses:

Wherein the extracting process is based on properties of the database wherein the extracting process comprises extracting data from a relevant list of relevant data fields in the database, (Col. 8, lines 55-63).

As per Claim 42, Hafner et al discloses:

wherein the extracting process is based on compatibility of a processing system of a second business entity to receive the extracted subset, (Col. 3, lines 34-64).

As per Claim 43, Hafner et al discloses:

wherein the extracting process is based on a process based on previous history of usefulness of prior extracted data, (Col. 10, lines 50-56).

As per Claim 44, Hafner et al discloses:

wherein the extracting process is based on a process based on a model for managing the transactional subject, (Col. 10, lines 63-65).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hafner et al, U.S. Patent No. 5,893,076.

As per Claims 13 and 17, Hafner et al disclose wherein the obtaining step comprises updating demand-indicating data in the database (Col. 6, lines 1-7, 12-25 and 39-43). Hafner et al fail to explicitly disclose that this data is updated on a daily basis after an end of a business day and prior to a beginning of a next successive business day. However, Hafner et al disclose that this data is updated after the retailer

either sells or loses goods (Col. 6, lines 12-14) and further discloses that any changes in stock due to the PO are communicated and stored in the stock data file (Col. 6, lines 39-43). Hafner et al further disclose that the forecasting engine runs either on demand or when requested by a scheduler (Col. 5, lines 42-50) that is controlled by the user (Col. 10, lines 58-60).

Examiner submits that it would have been obvious to one having ordinary skill in the art at the time of invention that the interval for updating the data would be any interval established by the users of the system depending on the nature of the business. For a business that sells a significant amount of stock in a particular day such as WalMart, it would have been obvious to one having ordinary skill in the art to program the scheduler to update the data on a daily basis so that stock levels and demand data is accurately reflected.

Claims 14-16, 18, 19, 20, 22, 40, 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hafner et al, US. Patent No. 5,893,076 in view of Meltzer et al, U.S. Patent No. 6,125,391.

As per Claims 14-16, Hafner et al further discloses:

obtaining demand-indicating data with respect to a transactional subject (Col. 2, lines 45-47; Col. 3, line 65-Col. 4 line 12; Col. 4, lines 17-28; Col. 5, lines 15-20; Col. 6, lines 12-20);

extracting a relevant portion of the demand-indicating data from the database (Col. 5, lines 15-48);

wherein the extracting process is selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, (Col. 3, lines 34-64), a process based on previous history of the usefulness of prior extracted data, (Col. 10, lines 50-56), a process based on a model for managing the transactional subject, (Col. 10, lines 63-65), and a process based on properties of the database, (Col. 5, lines 10-19);

automatically transmitting the extracted relevant portion of the demand-indicating data from a first business entity to a second business entity over a communications network, (Col. 2, lines 47-50; Col. 3 line 65-Col. 4 line 12; Col. 5, lines 15-20, Col. 6, lines 12-20);

automatically feeding the transmitted demand-indicating data into an electronic processor (Forecasting engine, Figure 3, 230) for monitoring the transactional subject or demand-indicating data, the electronic processor being associated with an electronic processing system, (Replenishment system, 10, Figure 3) of the second business entity (Figure 3; Col. 2, lines 47-50; Col. 3 line 65-Col. 4 line 12; Col. 4, lines 50-55; Col. 5, lines 17-25 and 34-55; Col. 6, lines 20-25) (Examiner notes that the replenishment system of Hafner et al is considered by the examiner to be part of the second business entity since Hafner et al indicates that his system allows for cost efficient, secure and flexible inventory forecasting and replenishment which may be maintained by suppliers (Col. 2, lines 5-10).); and

generating a business decision of the first business entity and the second business entity that is based on the demand-indicating data and that is made solely by

the electronic processing system without the need for manual data entry into or manual data extraction from the electronic processing system, (Col. 2, lines 23-25; Col. 2, lines 47-55; Col. 4, lines 28-34 and 43-55; Col. 5, lines 42-60; Col. 6, lines 23-32). Examiner submits that the replenishment system of Harrier et al correlates to the electronic processing system as claimed and is considered part of the second business entity since Hafner et al indicates that his system allows for cost efficient, secure and flexible inventory forecasting and replenishment which may be maintained by suppliers (Col. 2, lines 5-10)). Examiner notes that applicant's specification defines requirement-indicating data as information that is useful in managing or conducting a commercial activity or a transaction involving a transactional subject (Specification, Page 5, lines 7-10).

Applicant's specification further defines requirement-indicating data as data that may represent forecast data, demand data, consumption data, inventory data, or any other data that impacts characteristics of a transaction or commercial activity involving the transactional subject (Specification, page 9, lines 18-21), wherein inventory data represents a measure of an inventory level of a transactional subject (Specification, page 9, lines 24-25), and consumption data represents an increase, a decrease, rate of increase, or rate of decrease of inventory of a transactional subject (Specification, page 9, lines 25-27). Hafner et al discloses that the data being obtained is inventory information such as point of sale data or inventory adjustment information such as quantities of goods sold and returned as well as decreases in safety stock and loss of inventory (Col. 4, lines 1-12; Col. 6, lines 11-20). Thus, examiner submits that

Hafner et al teach obtaining and processing the particular type of data as defined in applicant's specification.

Hafner et al fails to explicitly disclose formatting the extracted relevant portion of the demand-indicating data into an extensible mark-up language document.

However, Meltzer et al disclose a system for using documents for commerce in trading partner networks and further disclose a system for parsing structured information and formatting the information into an XML based document and further translating an XML based document into other structured formats (Col. 2, lines 60-67; Col. 3, lines 20-30 and 45-50; Col. 5, lines 50-56; Col. 7, lines 55-61; Col. 10, lines 29-38; Col. 10 line 65-Col. 11 line 10; Col. 26, lines 18-39; Col. 82, line 58-Col. 83 line 28).

It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the teachings of Hafner et al and incorporate the ability to format information into XML based documents and translate XML based documents into other formats acceptable to a particular business' system as taught by Meltzer et al.

Meltzer et al provides motivation by specifically indicating that this would facilitate a virtual enterprise or trading community such that trading partners would only need to agree on the structure, content and sequencing of the business documents they exchange and enables a business to present a clean and stable interface to its business partners despite changes in its internal technology implementation, organization or processes (Col. 82, lines 59-67 and Col. 83, lines 20-30).

Furthermore, applicant admits that data format translators and converters to and from XML files were known in the art and commercially available at the time of the invention (See Specification, Page 8, lines 3-11).

As per Claim 18, Hafner et al further disclose displaying the demand-indicating data for a user affiliated with one of the first business entity and the second business entity (Col. 11, lines 20-28).

As per Claim 19, Hafner et al further disclose wherein the business decision comprises deciding to change the manufactured quantity of a material as the transactional subject (Col. 4, lines 28-32; Col. 6, lines 25-42; Col. 8, lines 1-10).

As per Claim 20, Hafner et al further disclose wherein the business decision comprises deciding to change a supply of material to fulfill a firm demand derived from the demand-indicating data (Col. 4, lines 28-32; Col. 6, lines 25-42; Col. 8, lines 1-10).

As per Claim 22, Hafner et al further disclose wherein the first business entity represents a customer of a material as the transactional subject and wherein the second business entity represents a supplier of the material (Figure 1 ; Col. 3 line 64-Col. 4 line 60).

As per claim 40, Hafner et al discloses:

Wherein the extracting process is based on properties of the database wherein the extracting process comprises extracting data from a relevant list of relevant data fields in the database, (Col. 8, lines 55-63).

As per claim 45, Hafner et al discloses:

wherein the extracting process is based on compatibility of a processing system of a second business entity to receive the extracted subset(Col. 3, lines 34-64)..

As per claim 46, Hafner et al discloses:

wherein the extracting process is based on a process based on previous history of usefulness of prior extracted data, (Col. 10, lines 50-56)..

As per claim 47, Hafner et al discloses:

wherein the extracting process is based on a process based on a model for managing the transactional subject(Col. 10, lines 63-65)..

(10) Response to Argument

As per claims 2-5, 7, 9, 10 and 34-37, appellant makes arguments. Specifically, as per claim 7, appellant argues that Hafner et al does not disclose any one of the extracting process options recited this claim. However, as described above in the rejection, Hafner et al discloses **“the extracting process is selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset”** in *Col. 3, lines 34-64*.

Here, Hafner et al shows that the retailer may have one type of compatible software running on a network, where the network accepts formatted data and makes the data available to clients using different communication devices/software programs, meaning that when the client extracts the data, it is formatted according to the communication device/software program, thereby making it compatible with that device/program. In addition, Hafner et al discloses **“a process based on previous history of usefulness**

of prior extracted data", by disclosing that an associated menu allows a user to extract via evaluating demand history as shown in *Col. 10, lines 50-56*. In addition, Hafner et al discloses "**a process based on a model for managing the transactional subject**" by disclosing the use of replenishment modeling to manage parameters as shown in *Col. 10, lines 63-65*. Finally Hafner et al discloses "**a process based on properties of the database**" by disclosing the storage of pertinent inventory information in both the stock and inventory files, and using these files to for extracting data as shown in *Col. 5, lines 10-19*.

As per claim 8, appellant argues that Hafner et al does not disclose **transmitting superseding requirement-indicating data on an as-needed basis**. However, in *Col. 4, lines 1-12*, Hafner et al describes inventory adjustment data, which is analogous to data that is superseding prior inventory data.

As per claim 42, this claim depends directly from claim 7, and this claim is therefore rejected for the same reasons as claim 7. Also, appellant argues that Hafner et al does not disclose nor suggest the extracting process being "**based on compatibility of a processing system of a second business entity to receive the extracted subset**". " However, Hafner et al discloses this feature in *Col. 3, lines 34-64*. Here, Hafner et al shows that the retailer may have one type of compatible software running on a network, where the network accepts formatted data and makes the data available to clients using different communication devices/software programs, meaning that when the client extracts the data, it is formatted according to the communication device/software program, thereby making it compatible with that device/program.

As per claim 43, this claim depends directly from claim 7, and this claim is therefore rejected for the same reasons as claim 7. Also, appellant argues that Hafner et al does not disclose "**based on previous history of usefulness of prior extracted data**".

However, Hafner et al discloses this limitation by disclosing that an associated menu allows a user to extract via evaluating demand history as shown in *Col. 10, lines 50-56*.

As per claim 44, this claim depends directly from claim 7, and this claim is therefore rejected for the same reasons as claim 7. Also, appellant argues that Hafner et al does not disclose "**based on a model for managing the transactional subject**". However, Hafner et al discloses this limitation by disclosing the use of replenishment modeling to manage parameters as shown in *Col. 10, lines 63-65*.

As per claims 18-22, these claims depend from claim 14, and are therefore rejected for the same reasons.

As per claim 38, appellant argues that Hafner et al fails to disclose an extracting process "**based on properties of the database.**" However, Hafner et al discloses this limitation by disclosing the storage of pertinent inventory information in both the stock and inventory files, and using these files to for extracting data as shown in *Col. 5, lines 10-19*.

As per claims 14-16, 18-20 and 22, appellant argues that Hafner et al fails to disclose that "the extracting process is selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, a process based on previous history of usefulness of prior extracted data, a process based on a model for managing the transactional subject and

a process based on properties of the database." However, this same subject matter is disclosed in claim 7. As discussed above in the preceding paragraph with respect to claim 7, Hafner et al discloses **"the extracting process is selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset"** in *Col. 3, lines 34-64*.

Here, Hafner et al shows that the retailer may have one type of compatible software running on a network, where the network accepts formatted data and makes the data available to clients using different communication devices/software programs, meaning that when the client extracts the data, it is formatted according to the communication device/software program, thereby making it compatible with that device/program. In addition, Hafner et al discloses **"a process based on previous history of usefulness of prior extracted data"**, by disclosing that an associated menu allows a user to extract via evaluating demand history as shown in *Col. 10, lines 50-56*. In addition, Hafner et al discloses **"a process based on a model for managing the transactional subject"** by disclosing the use of replenishment modeling to manage parameters as shown in *Col. 10, lines 63-65*. Finally Hafner et al discloses **"a process based on properties of the database"** by disclosing the storage of pertinent inventory information in both the stock and inventory files, and using these files to for extracting data as shown in *Col. 5, lines 10-19*.

As per claim 40, this claim depends directly from claim 14, and is rejected for the same reasons as claim 14. In addition, appellant argues that Hafner et al fails to disclose an extracting process **"based on properties of the database."** However,

Hafner et al discloses this limitation by disclosing the storage of pertinent inventory information in both the stock and inventory files, and using these files to for extracting data as shown in *Col. 5, lines 10-19*.

As per claim 45, this claim depends directly from claim 14, and is rejected for the same reasons as claim 14. In addition, appellant argues that Hafner et al fails to disclose an extracting process "**based on compatibility of a processing system of a second business entity to receive the extracted subset**". However, Hafner et al discloses this feature in *Col. 3, lines 34-64*. Here, Hafner et al shows that the retailer may have one type of compatible software running on a network, where the network accepts formatted data and makes the data available to clients using different communication devices/software programs, meaning that when the client extracts the data, it is formatted according to the communication device/software program, thereby making it compatible with that device/program.

As per claim 46, this claim depends directly from claim 14, and is rejected for the same reasons as claim 14. In addition, appellant argues that Hafner et al fails to disclose an extracting process "**based on previous history of usefulness of prior extracted data**". However, Hafner et al discloses this limitation by disclosing that an associated menu allows a user to extract via evaluating demand history as shown in *Col. 10, lines 50-56*.

As per claim 47, this claim depends directly from claim 14, and is rejected for the same reasons as claim 14. In addition, appellant argues that Hafner et al fails to disclose an extracting process "**based on a model for managing the transactional**

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subject". However, Hafner et al discloses this limitation by disclosing the use of replenishment modeling to manage parameters as shown in *Col. 10, lines 63-65*.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Akiba Robinson



Conferees:

John Hayes



Vincent Millin